

103^D CONGRESS
2^D SESSION

H. R. 4097

To reform the Federal regulation of depository institution service corporations.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1994

Mr. LEACH introduced the following bill; which was referred to the Committee
on Banking, Finance and Urban Affairs

A BILL

To reform the Federal regulation of depository institution
service corporations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act shall be cited as the “Depository Institution
5 Service Corporation Reform Act of 1994”.

6 **TITLE I—BANK SERVICE CORPORATION**

7 **ACT AMENDMENTS**

8 **SEC. 101. SERVICE CORPORATION REFORMS.**

9 The Bank Service Corporation Act (Public Law 87–
10 856, 76 Stat. 1132, 12 U.S.C. 1861 et seq.) is amended
11 to read as follows:

1 **“SECTION 1. SHORT TITLE; DEFINITIONS.**

2 “(a) This Act may be cited as the ‘Depository Institu-
3 tions Service Corporation Act’.

4 “(b) For the purpose of this chapter—

5 “(1) the term ‘appropriate Federal banking
6 agency’ shall have the meaning provided in section
7 3(q) of the Federal Deposit Insurance Act (12
8 U.S.C. 1813(q));

9 “(2) the term ‘depository institution service cor-
10 poration’ means a corporation organized to perform
11 services authorized by this Act, all of the capital
12 stock of which is owned by one or more insured de-
13 pository institutions;

14 “(3) the term ‘Board’ means the Board of Gov-
15 ernors of the Federal Reserve System;

16 “(4) the terms ‘depository institution’, ‘insured
17 depository institution’ and ‘institution-affiliated
18 party’ have the meaning as in section 3 of the Fed-
19 eral Deposit Insurance Act (12 U.S.C. 1813);

20 “(5) the term ‘invest’ includes any advance of
21 funds to a depository institution service corporation,
22 whether by the purchase of stock, the making of a
23 loan, or otherwise, except a payment for rent earned,
24 goods sold and delivered, or services rendered prior
25 to the making of such payment; and

1 “(6) the term ‘principal investor’ means the in-
2 sured depository institution that has the largest dol-
3 lar amount invested in the capital stock of a deposi-
4 tory institution service corporation. In any case
5 where two or more insured depository institutions
6 have equal dollar amounts invested in a depository
7 institution service corporation, the corporation shall,
8 prior to commencing operations, select one of the in-
9 sured depository institutions as its principal investor
10 and shall notify the depository institution’s appro-
11 priate Federal banking agency of that choice within
12 5 business days of its selection.

13 **“SEC. 2. AMOUNT OF INVESTMENT IN DEPOSITORY INSTI-**
14 **TUTION SERVICE CORPORATION.**

15 “(a) DEPOSITORY INSTITUTIONS.—Notwithstanding
16 any limitation or prohibition otherwise imposed by any
17 provision of law exclusively relating to depository institu-
18 tions, an insured depository institution may invest in a
19 depository institution service corporation, provided that it
20 invests no more than—

21 “(1) 10 per centum of paid-in and unimpaired
22 capital and unimpaired surplus in any single deposi-
23 tory institution service corporation;

1 “(2) 20 per centum of paid-in and unimpaired
2 capital and unimpaired surplus in depository institu-
3 tion service corporations; or

4 “(3) 3 per centum of its total assets in depository
5 institution service corporations.

6 “(b) INSTITUTION-AFFILIATED PARTIES.—Without
7 the prior written approval of the appropriate Federal
8 banking agency, no depository institution service corpora-
9 tion may pay management fees, in any manner, to an in-
10 stitution-affiliated party or any corporation owned by an
11 institution-affiliated party.

12 **“SEC. 3. PERMISSIBLE SERVICE CORPORATION ACTIVITIES**
13 **FOR DEPOSITORY INSTITUTIONS.**

14 “Without regard to the provisions of sections 4 and
15 5 of this Act, an insured depository institution may invest
16 in a depository institution service corporation that per-
17 forms, and a depository institution service corporation
18 may perform, the following services only for depository in-
19 stitutions: check and deposit sorting and posting, com-
20 putation and posting of interest and other credits and
21 charges, preparation and mailing of checks, statements,
22 notices, and similar items, or any other clerical, book-
23 keeping, accounting, statistical, or similar functions per-
24 formed for a depository institution.

1 **“SEC. 4. PERMISSIBLE DEPOSITORY INSTITUTION SERVICE**
2 **CORPORATION ACTIVITIES FOR OTHER PER-**
3 **SONS.**

4 “(a) SERVICES PERMISSIBLE OTHER THAN TAKING
5 DEPOSITS.—A depository institution service corporation
6 may provide to any person any service authorized by this
7 section, except that a depository institution service cor-
8 poration shall not take deposits.

9 “(b) PERMISSIBLE SERVICES.—

10 “(1) IN GENERAL.—A depository institution
11 service corporation shall not perform any type of
12 service or engage in any activity not permissible for
13 a national bank.

14 “(2) WAIVER.—The appropriate Federal bank-
15 ing agency may waive the requirements of this sec-
16 tion, if—

17 “(A) the agency determines an activity
18 would pose no significant risk to the appro-
19 priate deposit insurance fund; and

20 “(B) the depository institution is in com-
21 pliance with applicable capital standards pre-
22 scribed by the appropriate Federal banking
23 agency.

24 “(c) GEOGRAPHIC LOCATION.—Notwithstanding the
25 other provisions of this section or any other provision of
26 law, other than the provisions of Federal and State

1 branching law regulating the geographic location of banks
2 to the extent that those laws are applicable to an activity
3 authorized by this subsection, a depository institution
4 service corporation may perform at any geographic loca-
5 tion any service, other than deposit taking, that the Board
6 has determined, by regulation, to be permissible for a bank
7 holding company under section 4(c)(8) of the Bank Hold-
8 ing Company Act of 1956 (12 U.S.C. 1843(c)(8)).

9 **“SEC. 5. PRIOR APPROVAL FOR INVESTMENTS IN DEPOSI-**
10 **TORY INSTITUTION SERVICE CORPORATIONS.**

11 “(a) APPROVAL OF FEDERAL BANKING AGENCY.—
12 No insured depository institution shall invest in the capital
13 stock of a depository institution service corporation that
14 performs any service under authority of section 4(b) of
15 this Act without the prior approval of the depository insti-
16 tution’s appropriate Federal banking agency.

17 “(b) APPROVAL OF BOARD.—No insured depository
18 institution shall invest in the capital stock of a depository
19 institution service corporation that performs any service
20 under authority of section 4(c) of this Act and no deposi-
21 tory institution service corporation shall perform any ac-
22 tivity under section 4(c) of this Act without the prior ap-
23 proval of the Board.

24 “(c) CONSIDERATIONS IN DETERMINING AP-
25 PROVAL.—In determining whether to approve or deny any

1 application for prior approval under this section, the
2 Board or the appropriate Federal banking agency, as the
3 case may be, is authorized to consider the financial and
4 managerial resources and future prospects of the deposi-
5 tory institution or depository institutions and depository
6 institution service corporation involved, including the fi-
7 nancial capability of the depository institution to make a
8 proposed investment under this chapter, and possible ad-
9 verse effects such as undue concentration of resources, un-
10 fair or decreased competition, conflicts of interest, or un-
11 safe or unsound banking practices.

12 “(d) FAILURE TO ACT ON APPLICATION FOR AP-
13 PROVAL.—In the event the Board or the appropriate Fed-
14 eral banking agency, as the case may be, fails to act on
15 any application under this section within ninety days of
16 the submission of a complete application to the agency,
17 the application shall be deemed approved.

18 **“SEC. 6. SERVICES TO NONSTOCKHOLDERS.**

19 No depository institution service corporation shall un-
20 reasonably discriminate in the provision of any services
21 authorized under this chapter to any depository institution
22 that does not own stock in the service corporation on the
23 basis of the fact that the nonstockholding institution is
24 in competition with an institution that owns stock in the
25 depository institution service corporation, except that—

1 “(1) it shall not be considered unreasonable dis-
2 crimination for a depository institution service cor-
3 poration to provide services to a nonstockholding in-
4 stitution only at a price that fully reflects all of the
5 costs of offering those services, including the cost of
6 capital and a reasonable return thereon; and

7 “(2) a depository institution service corporation
8 may refuse to provide services to a nonstockholding
9 institution if comparable services are available from
10 another source at competitive overall costs, or if the
11 providing of services would be beyond the practical
12 capacity of the service corporation.

13 **“SEC. 7. REGULATION AND EXAMINATION OF DEPOSITORY**
14 **INSTITUTION SERVICE CORPORATIONS.**

15 “(a) PRINCIPAL INVESTOR.—A depository institution
16 service corporation shall be subject to examination and
17 regulation by the appropriate Federal banking agency of
18 its principal investor to the same extent as its principal
19 investor. The appropriate Federal banking agency of the
20 principal shareholder of such a depository institution serv-
21 ice corporation may authorize any other Federal banking
22 agency that supervises any other shareholder of the depos-
23 itory institution service corporation to make such an ex-
24 amination.

1 “(b) ENFORCEMENT.—A depository institution serv-
2 ice corporation shall be subject to the provisions of section
3 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)
4 as if the depository institution service corporation were an
5 insured depository institution. For this purpose, the ap-
6 propriate Federal banking agency shall be the appropriate
7 Federal banking agency of the principal investor of the
8 depository institution service corporation.

9 “(c) SERVICES PERFORMED BY CONTRACT OR OTH-
10 ERWISE.—Notwithstanding subsection (a) of this section,
11 whenever a depository institution that is regularly exam-
12 ined by an appropriate Federal banking agency, or any
13 subsidiary or affiliate of such a depository institution that
14 is subject to examination by that agency, causes to be per-
15 formed for itself, by contract or otherwise, any services
16 authorized under this Act, whether on or off its prem-
17 ises—

18 “(1) such performance shall be subject to regu-
19 lation and examination by such agency to the same
20 extent as if such services were being performed by
21 the depository institution itself on its own premises,
22 and

23 “(2) the depository institution shall notify such
24 agency of the existence of the service relationship
25 within thirty days after the making of such service

1 contract or the performance of the service, whichever
2 occurs first.

3 “(d) ISSUANCE OF REGULATIONS AND ORDERS.—
4 The Board and the appropriate Federal banking agencies
5 are authorized to issue such regulations and orders as may
6 be necessary to enable them to administer and to carry
7 out the purposes of this chapter and to prevent evasions
8 thereof.”.

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